IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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C.W.P. No.16065 of 2005
Date of Decision:2.11.2006

M/s Juneja Engineering Works, Jallandhar
.....Petitioner

Vs.

Union of India and others
.....Respondents

CORAM:- HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. R.P.Sawhney, Senior Advocate with Mr. Gagan Kohli, Advocate for the petitioner.

Ms. Daya Chaudhary, Asstt. Solicitor General of India.

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ADARSH KUMAR GOEL, J.

The petitioner in the present petition has approached this Court challenging the order passed by the Customs, Excise and Service Tax Appellate Tribunal, Delhi (for short, `the Tribunal') whereby condition for payment of 50% of the demand of duty was put in for entertainment of appeal and for non-payment thereof, the appeal itself was rejected by considering the application of the petitioner for modification of the stay order. While issuing notice of motion, this Court directed the petitioner to deposit Rs.10 lacs.

After hearing learned counsel for the parties and without expressing our view on the merits and the controversy involved, we are of the view that the ends of justice in the present case will be met in case the petitioner is required to deposit 25% of the demand of duty within a period of one month from today including the amount paid by him as per interim

order passed by this Court for hearing on his appeal on merits by the Tribunal. Accordingly, the order passed by the Tribunal on application for entertainment of appeal is modified to the extent that appeal filed by the petitioner shall be heard on deposit of 25% of the duty demanded within a period of one month from today and recovery of the balance amount shall remain stayed.

Accordingly, the impugned order dismissing the appeal is set aside if the amount is deposited within a period of one month from today. The petitioner shall appear before the Tribunal for further proceedings on deposit of 25% of the amount. If the amount is not deposited, the dismissal order of the appeal will stand.

Parties to appear before the Tribunal on 21.12.2006.

Copy of the order be given dasti on payment of usual charges.

(ADARSH KUMAR GOEL)
JUDGE

November 2, 2006 **(RAJESH BINDAL)**
renu **JUDGE**